

Controlling the Abandoned Land in Tegal Regency

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Abstract

This research aims to know and to analyze the cause of Abandoned land in Sumbarang village, Tegal regency, the effort which has been done by land office of Tegal regency and the obstacle which is faced by the Tegal Regency's Land Office in controlling the Abandoned land. The type of this research is an empirical law which placed in Sumbarang village, Tegal regency. The source of the data consist of primary and secondary data. It is analyzed by qualitative technique. The results of this research find that the factors of the Abandoned land in Sumbarang village are: (1) the wide of the land is not comparable with the worker (2) the right land is lended to Sugar Company (PG) Pangkah, so the farm is changing function. (3) plant hama attack. The efforts which is done by the land office of Tegal regency toward the Abandoned land are (1) directing the right holder to use their land. (2) monitoring towards the land right, (3) evaluating the land right (4) controlling based on Government Regulation Number 11 of 2010 jo. Regulation of the Head of the National Land Agency Number 4 of 2010. The Tegal office land faces some obstacles, they are (1) the right holder lives is unknown, so, it causes difficulty in giving the warn. (2) the right holder is not cooperative. There is no coordination and cooperation between the right holder and land Office.

Keywords: Controlling, Abandoned Land, Tegal Regency

Abstrak

Penelitian ini bertujuan untuk mengetahui dan menganalisis penyebab lahan terbengkalai di Desa Sumbarang, Kabupaten Tegal, upaya yang telah dilakukan dan kendala yang dihadapi oleh Kantor Pertanahan Kabupaten Tegal. Jenis penelitian ini adalah penelitian hukum empiris yang dilaksanakan di Desa Sumbarang, Kabupaten Tegal. Sumber data terdiri dari data primer dan sekunder. Data dianalisis dengan teknik kualitatif. Hasil penelitian menemukan bahwa faktor-faktor lahan terbengkalai di Desa Sumbarang adalah: (1) luas lahan tidak sebanding dengan jumlah pekerja (2) hak tanah dipinjamkan ke PG. Pangkah, sehingga pertanian berubah fungsi. (3) Tanaman terserang hama. Upaya yang dilakukan oleh kantor pertanahan Kabupaten Tegal terhadap lahan terbengkalai adalah (1) mengarahkan pemegang hak untuk menggunakan tanah mereka, (2) pemantauan terhadap hak tanah, (3) evaluasi hak atas tanah (4) pengendalian berdasarkan Peraturan Pemerintah Nomor 11 tahun 2010 jo. Peraturan Kepala Badan Pertanahan Nasional Nomor 4 Tahun 2010. Tanah kantor Tegal menghadapi beberapa kendala, yaitu (1) pemegang hak nyawa tidak diketahui, sehingga menyebabkan kesulitan dalam memberi peringatan. (2) pemegang hak tidak kooperatif. Tidak ada koordinasi dan kerjasama antara pemegang hak dan Kantor pertanahan.

Kata kunci: Pengendalian, Tanah Terbengkalai, Kabupaten Tegal

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Introduction

Humans and land are two things that cannot be separated because human life cannot separate from the land (Wibawanti, 2013). Land for human life has a very strategic meaning, because it has a broad dimension which includes social, economic, cultural, political, production and land as well as security dimensions (Limbong, 2017).

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Land is very important and significant for humans therefore humans want to acquire and control a land. However, on the other hand there are still people who do not maintain and make maximum use of the land because there are also many lands in some places that are still neglected, although the legislation prohibiting the rights-holders to abandon land.

Land abandonment is not an unwise, uneconomical action (loss opportunities to create land economic potential) unfair, and is also a violation of the obligations that must be carried out by rights-holders or parties that have obtained the basis of land tenure (**Supriyanto, 2010**). This is stated in Article 15 of the Basic Agrarian Law Act (UUPA), it states:

“Maintaining the land, including increasing its fertility and preventing its damage, is the obligation of every person, legal entity or institution that has a legal relationship with the land, by taking into account to the low socioeconomic group.”

Based on the data on land abandonment by the Directorate General of Land Control and abandoned Land Utilization of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (BPN), in 2017 there were 4,880,598.3049 hectares of land abandoned or neglected. From the area issued from the abandoned land database covering an area of 465,062.3227 hectares, the proposed designation of abandoned land with an area of 1,081,160,5358 hectares, which has not been controlled with an area of 3,334,375.4464 hectares. From the indicated land area abandoned were 4,880,598,3049 hectares, which was settled as abandoned land were 75,475.1493 hectares, then which has not been designated as abandoned land covering an area of 1,005,685.3865 hectares (**Mujiburrohman, 2018**).

One of the cases of land abandonment that was done by PT. GUCISARI. PT. GUCISARI was granted a land cultivation rights title for business covering an area of 91,1539 hectares located in Cikura Village, Danasari Village, Kedawung Village, Bojong Sub-District, and Sumbarang Village, Jatinegara Sub-District, Tegal Regency. Specifically for those in Sumbarang Village, Jatinegara Subdistrict has $\pm 241,700$ M² of land abandoned by PT. GUCISARI.

At the moment, there is a stagnation of plantation business activities in accordance with the nature and purpose of granting rights to PT. GUCISARI, that is for Horticulture plantation business with orange or citrus plants. There was no activity like a whole plantation business in the field, some are cultivated and utilized by the community without an agreement and permit from the company, but there is also a portion of land that planted with sugar cane and beans from other companies under an agreement (**Indra, 2018**).

Problems

Based on the background of the study, this article studies three problems: *first*, what are the factors that cause the occurrence of abandoned land in Sumbarang Village, Tegal Regency; *second*, what efforts have been made by the Tegal Regency Land Office on land that has been abandoned; *Third*, what are the obstacles faced by the Tegal Regency Land Office in controlling abandoned land.

Research Method

This research is an empirical research. To solve the problems above, the research is designed using survey method, observation, interview and literature review. The main sources of this research are primer data and secondary data. The location of this research is in Tegal Regency. Data obtained, then collected and analyzed qualitatively with descriptive-analytics model.

Discussion

Factors Causing the Occurrence of Abandoned Land in Sumbarang Village, Jatinegara Sub-District, Tegal Regency

To find out the causes of abandoned land in Sumbarang Village, the researchers sought information in the field by interviewing the officials at the Tegal Regency Land Office about these problems. Based on the results of field study, some factors were found which causing the occurrence of abandoned land in Sumbarang Village, Tegal Regency, that is:

First, The area of land is not comparable with the number of labor force or cultivator. One of the factors of land abandonment that happen in Sumbarang Village is due to extensive land tenure but it is not proportional with the number of cultivators. With area of land around 24, 1700 ha and only done by 40 people and as a result not all of the plantation land can be managed optimally, so that there are some lands that are not cultivated/abandoned. Based on data from the results of field study, the area of land controlled by PT. GUCISARI in Sumbarang Village can be seen in the following table:

Table 1. Land area for Cultivation Rights Title (HGU) PT. GUCISARI

Village	No. HGU	Area of Land (Ha)	Managed (%)
Sumbarang	1	24,1700	26,52

Source: Land Office of Tegal Regency, 2018

Based on table 1, it can be explained that out of the total area of 24, 1700 Ha the land controlled by PT GUCISARI can only be managed as much as 26.52% or 6.409 Ha or only about $\frac{1}{4}$ of the total land controlled by PT. GUCISARI. Indra (Head of Land Control and Cultivation) explained that:

"With a large enough land area of around 24 hectares, the company should be able to estimate the ideal number of labor to work on the plantation, so that all of the land can be cultivated. With the number of labor who only have around 40 people make it difficult to do the maximum land area of about 24 hectares (**Indra, 2018**)."

The action of PT. GUCISARI, which did not seek all the HGU land it controlled, resulted in the land being included in the category of abandoned land. For land that is abandoned by the owner, this certainly needs attention from the relevant agencies, in this case BPN. Given the extent of the land that is not sought by the rights holders and the situation has been going on for quite a long time. If the abandonment of the land is allowed to extend, it will give an impact on the socio-economic access of the community, especially farmers and, importantly, it will be the reduction in the fertility of the abandoned land (Mujiburrohman, 2018).

In fact, reserving the land, including improving its fertility and preventing damage, is the responsibility of the Rights Holders of the land. It is confirmed in Article 15 of Law Number 5 of 1960 concerning Basic Agrarian Law (UUPA) which states that:

"Maintaining the land, including improving its fertility and preventing damage, is the responsibility of every person, legal entity or institution that has a legal association with the land, by paying attention to those who are economically weak."

Furthermore, the explanation of the Article is also stated that: "Land must be properly maintained, which is maintained according to the methods commonly applied in the related area, following the instructions from the related offices." The State gives land rights or Management Rights to rights holders (both individuals and legal entities) to be cultivated, used, and utilised and maintained properly for the welfare of their rights holders, and must also be aimed at the community, nation and state (**Santoso, 2005**). Surely, when the State gives rights to people or legal entities, it is always accompanied by obligations in the decree of grants of rights. Thus, the rights holders are prohibited to abandon their land, and if they do, the Basic Agrarian Law (UUPA) has regulated the legal consequences (**Suharningsih, 2009**).

Furthermore, about the land area of HGU owned by PT. GUCISARI, according to the researcher, the rights holders should consider proper capital investment and good company techniques before requesting land permits for plantation business, considering the land used for businesses that are \pm 24,100 hectares or almost 25 hectares. The article 28 paragraph 2 of the Basic Agrarian Law states that: "Cultivation rights are granted for land with an area of at least 5 hectares, with the provision of 25 hectares or more must use appropriate investment capital and good company techniques in accordance with the current development."

Next, the explanation of article 28 states that:

"... To encourage the efficient use and exploitation of the land, it is stipulated that on land with an area of 25 hectares or more there must be proper capital and good

company techniques. It does not mean that the land area of fewer than 25 hectares may be exploited in a bad way because, in this case, the right to use the business can be revoked (article 34).”

The article above shows that, even though the area of land owned by PT. GUCISARI is less than 25 Ha, that does not mean that the business can be done in a wrong way, the business must also pay attention to proper investment capital and good company techniques that allow the occupied land to be used and utilized. If the operation is not undertaken correctly and leads the land to become neglected, the usufructuary rights can be removed in accordance with the provisions in Article 34 of the Basic Agrarian Law.

Second, The owned Land is Leased to PG. Pangkah. From the results of the field research, obtained data on land controlled by PT. GUCISARI is leased to PG. The footing with an under-contract agreement for 3 years since 2004 will then be extended every 3 years. The lease-sponsorship agreement was never carried out at the Tegal Regency Land Office. The data on the leased land area can be seen in the table below:

Table 2. Conditions for HGU Land Mastery of PT. GUCISARI

Location	The owner of the land: (Ha)		
	PT. GUCISARI	PG. Pangkah	Total
Sumbarang Village	24,1700	24,1700	24,1700

Source: District Office of Tegal Districts, 2018

Based on the table above, it can be seen that the entire (100%) land owned by PT. GUCISARI is leased to PG. Pangkah. From the table, the *De facto* land area of HGU is still controlled by PT. GUCISARI, but in reality, the land is entirely leased to PG. Pangkah.

Since the land owned by PT. GUCISARI was leased to PG. Pangkah, sugar canes and beans were then planted in the land, and it was used to plant mixed plants like cassava, bananas, and some wild *segon* trees. It surely violates the permit granted for HGU, in accordance with the Decree on Granting Right to Cultivate to PT. GUCISARI and the approval of the Investment Coordinating Board stipulated that the land would be used for horticulture plantations with citrus crop types.

The Actions of PT. GUCISARI who lease the land to PG. PANGKAH makes the plantation land not utilized in accordance with the nature and purpose of the rights granted. Land that is not used in accordance with the nature and purpose of the rights granted is against the social function of land rights in accordance with what is stated in Article 6 of the Basic Agrarian Law. The Article 6 of the Basic Agrarian Law states that: “All rights to land have a social function”. It means that the land used must be adapted to its circumstances and the nature of its rights to benefit both the welfare and

contentment of the owner and benefit the community and the State (Sukanti & Gunawan, 2008).

The social function of land rights obliges those who have the rights to use the land in accordance with their circumstances and the nature of their rights, which refer to: the condition of the land, the nature, and the purpose of giving the rights (Harsono, 2003). If the obligation is intentionally ignored, this can result in the deletion or cancellation of the rights. In such cases, the land is grouped as "abandoned" land (Harsono, 2003).

Third, Plant Pest Attack. The results of field research show that citrus plants were attacked by CVPD (virus) type. CVPD is a virus that attacks citrus plants, decreasing the size of oranges, decreasing the quantity of the fruits produced, making the taste to be acidic, and even worse causing the plants to die.

There are a number of impacts caused by the CVPD virus attack that made the citrus plant cultivated by PT. GUCISARI has failed to be harvested. The harvest failure did not only happen once, but twice. It is caused by the same pest called CVPD virus. The harvest failure significantly impacts the economic condition of the company. The company lost money due to the harvest failure, resulting in stagnation of plantation business activities.

The condition of land use after the attack of plant pests is shown in the table below:

Table 4. Conditions of Land Use After the Pests Attack

Hgu Village	The Land Use (Hectare)		
	Districts	Streets	Grass
Sumbarang	0,0400	0,1000	24,0300
Total	0,0400	0,1000	24,0300

Source: Land Office of Tegal Regency, 2018

According to table 4 above, it can be seen that the conditions of land use in the entire (100%) plantation area of PT. GUCISARI is not utilized in accordance with the aim and intention of grant of the rights. The land is not properly utilized so that it is overgrown with grass. The use of land covered by grass is a result of the attack of the CVPD (virus) pests to the citrus plants cultivated by PT. GUCISARI. Thus, the condition of the current land use is in the form of vacant and abandoned land overgrown with grass and shrubs.

According to the researcher, whatever the reasons, it is not appropriate for the owner / holder of land rights to abandon the land they own. Land abandonment carried out by the holders of land rights gives obstacle to the realization of agrarian ideals that want the land to be utilized for the greatest prosperity of the people (Hasanah, 2015). If the rights holder, in this case, PT. GUCISARI, felt that they could no longer afford to cultivate the land they own, then the right to own his land should be cut.

With the cut of the rights to the land, the plantation land will be directly controlled by the State, which will be used for the greatest prosperity of the people. The abandonment did by the holders of land rights because not only violating the obligations

of the rights holders stated in Article 15 of the Basic Agrarian Law, but also violates Article 6 of the Basic Agrarian Law about social functions on land. With the social function, the consequence is that the land must be managed as per its designation, the land can be revoked from the ownership of the owner / rights holder if it against the public interest (**Hasanah, 2015**). Therefore, the legal consequences of the rights holder to the land will be abolished and given to the State, and the land will be directly controlled by the State.

Efforts Made by the Land Office of Tegal Regency Against the Abandoned Land

According to Indra, the efforts that have been made so far by the Tegal Regency Land Office on plantation land that is not cultivated include (**Indra, 2018**):

1. Direct the holders of land rights to utilise the land in accordance with its designation.
2. Undertake monitoring of applications for land rights.
3. Undertake an evaluation of the application for land rights, to what extent land use has been utilized and optimized.
4. Undertake an inventory of indications of abandoned land.
5. Identify and conduct research on plots of land which become the criteria for abandoned land.

After carrying out those steps, the Land Office reports the results of the activity to the Regional Office of the National Land Agency. If the land is included in the category of abandoned land, control will be applied to the plantation land based on the applicable legislation.

Concerning the problem of stagnation of plantation business activities carried out by PT. GUCISARI resulting in the condition where the plantation land is no longer cultivated, Indra stated that:

“According to applicable provision toward the indication of the neglect of HGU land done by PT. GUCISARI, so The Land Office as Vertical Organization under Region of the National Land Agency of the Province has conducted Abandoned land inventory and followed up with identification hand the observation of HGU Number 1/Sumbarang on May 4th, 2011 in Land Office Tegal District. The result of the identification and the research is agreed that the land holder of HGU Number 1/Sumbarang, in this case, PT.GUCISARI is no longer making an effort the land according to the allotment, thus it is given warning in accordance with applicable regulations. By by giving warning letter as follow: Warning I (first) on May 13th, 2011, warning II (Second) on June 14th, 2011 and warning III (Third) on July 15th, 2011. After warning III (third) is terminated, it will conducted monitoring and evaluation of the development of the exploitation progress, the use and utilization of the land.

If grace period of warning III the right holder does not make an effort, use and utilize and use the land until the rights expire, HGU Number 1/Subang will be appointed as abandoned land in accordance with applicable regulations and no extension of the right to the land.”

About the effort done by Land Office in conducting demolition of abandoned land, Ani Andjawati (Land Law Lecturer in Notary Masters Study Program, Universitas Gadjah Mada) suggests:

“There is no effective rule which regulates the eradication of abandoned land, thus the implementation of demolition of abandoned land is considered to be not optimal. In government Regulation (PP) Number 11 Year 2010, it seems to rule about abandoned land, but actually it is not. The proof is that the land has been designated as abandoned land by the Government in this case the BPN, but always loses in court. Why? It is because the regulations regarding abandoned land are not implemented. In the PP, only the land rights can be stated as abandoned land and the system, but they do not regulate individually and in detail about abandoned land rights. It is because every land right has its own character, for example HGU has different characters from HGB, and others. There is no the steps until the execution itself. So in PP, it needs regulated individually and in detail regarding abandoned land rights so that the regulation can be implemented implementatively. So it is necessary to amend the rules regarding abandoned land (Andjawati, 2018).”

In the interview, Ani adds:

“PP which is not implementable about abandoned land makes the people who implement the PP cannot do anything if there are no rules. If there is no clear rule that only the rights to the land are designated as abandoned land, it will become an obstacle in its implementation. It is because the implementation depends on the character of each land right that is designated as abandoned land. Therefore, this must be regulated in each and every detail of the land rights in the PP (Andjawati, 2018).”

Ani concludes that, the ineffectiveness of the regulations governing abandoned land so that it is deemed necessary to amend the regulation, and in the amendment it must be regulated individually and in detail regarding abandoned land rights, so that the regulation can be implemented in an implementative manner. In addition, additional sanctions must be stipulated so that holders of land rights do not neglect the land they control.

According to the researcher, by conducting the effort of review toward the regulation which rule about demolition of abandoned land and revising, it is an effort to prevent the occurrence of abandoned land that is more efficient than making efforts to control abandoned land. If the upstream has been repaired, the flow to the downstream will also be good. It means that if the regulations governing the eradication of abandoned land have been improved and implemented, then the efforts to control the abandoned land can be carried out properly.

Based on the description above, inline with Maria S.W Sumardjono who suggests:

“at this time, the neglect of land has increasingly caused social, economic and people's welfare disparities and has reduced the quality of the environment, so that it is necessary to re-regulate the control and utilization of abandoned land (Sumardjono, 2007).”

The Obstacle of Land Office Tegal District in Disciplining Abandoned Land

The implementation of control and the utilization of abandoned land need to considering normative juridical aspects, juridical sociological and economic juridical. The normative juridical aspect in this case is an effort to obtain a legal basis for affirmation of abandoned land and follow-up with the regulations for the enforcement and utilization of abandoned land in a coordinative manner. The sociological juridical aspect in this case is an effort to affirm the existence of abandoned land through the identification and assessment of the field in a coordinative manner by involving relevant agencies, local governments and local communities. Whereas the economic juridical aspect in this case is an effort to coordinate abandoned land utilization for those who need business development facilities in the form of patterns of technical assistance, business cooperation and financing (Risnarto & Pakpahan, 2018).

In the implementation of Regulation Head of The National Land Agency of The Republic of Indonesia Number 4 Year 2010 is not considering the three aspects above, there are obstacles in implementing the Government regulation in the working area of the Tegal District Land Office, in which obstacles which arise are not only because of these Government Regulations. there are many weaknesses that are difficult to implement, but many other factors influence and become obstacles in their implementation in the field. In theory, this failure can be caused by legal or regulatory factors, executors or officers, facilities or infrastructure, public awareness and the legal culture of the community (Soekanto, 1983).

In implementing or applying the rule of Law about Abandoned Land Control is not as easy as the reality. There are still cases on the field which are are obstacles. The obstacles faced by the Tegal District Land Office as follow:

1. The right holders are unknown whereabouts;
2. The right holder over the land are not cooperative.

About the obstacles faced, Indra states:

“The main obstacle in disciplining abandoned land of PT. GUCISARI is, the holder of land rights is unknown, so the land office has difficulty contacting holders of land rights. At the time of field research, the task force for identification and research of abandoned land in Tegal District did not meet with the company either the leadership or staff and employees. Only village officials and people who happened to work on the land at that time could be contacted. So that the task force identification and research on abandoned land cannot ask for information directly from holders of land rights and related parties. The information obtained is only limited to the knowledge of village officials and people who happen to work on the land (Indra, 2018).”

The difficulty to contact the right holders and no company office was found on behalf of PT. The GUCISARI certainly prevented the Tegal Regency Land Office from controlling the abandoned land. In his interview, Indra also explained:

“Besides being hampered in the process of Identification and Research because the right-holders are not known to exist, it also happens in giving warnings. The Tegal District Land Office also experiences difficulties if it will give a warning to the holder of the right to use in accordance with the purpose of granting his rights. So that the warning letter is conveyed through the manager in the field (Indra, 2018).”

Beside the obstacles above, other obstacles faces by Land Office Tegal District in disciplining abandoned land is, right holder is not cooperative. In the interview, Indra explained:

“Right holder over the land (PT. GUCISARI) cannot be cooperated / uncooperative, this is evident when the land office of Tegal Regency gives I (first) warning on 13 May 2011, then II warning (second) on 14 June 2011, and the third warning (three) on July 15, 2011 the rights holders ignored the warning. Holders of land rights have never responded to the warning letter given 3 (three) times by the Land Office of Tegal Regency.”

Non-cooperation of land rights holders and the lack of good coordination between rights holders and the Tegal District Land Office is certainly a major obstacle for the Tegal Regency Land Office in regulating the abandoned plantation land.

Based on the researcher, regarding the obstacles faced by the Tegal District Land Office in curbing abandoned land, cooperation from various related parties is needed to overcome these obstacles, both from rights holders, the Regional Government, and regional offices. By conducting deliberations to all stakeholders (stakeholders), it is hoped that the obstacles encountered can be resolved properly.

Conclusion

Fisrt, the factors which cause abandoned land in Sumbarang Village, Jatinegara Sub-District, Tegal District as follow: (1) The surface area is not comparable with cultivators, in which surface area of ±24,1700 Ha is only conducted by 40 cultivators, so the land cannot be cultivated entirely; (2) Controlled land is rent to PG. Pangkah, leasing plantation land to PG. Pangkah makes the plantation land change its designation; (3) plant pest attacks, cultivated plants attacked by CVPD virus, so that the company loses and stagnates plantation business activities.

Second, the efforts done by Land Office of Tegal District toward abandoned land, as follow: (1) Directing right holder to utilize the land according to its purpose; (2) Implementing monitoring to what extend the land has been utilized and optimized; (3) Implementing evaluation tow hat extent the land been utilized and optimized; (4) Control the abandoned land, the steps are as follow: (a) Inventory; (b) Identification and observation/research; (c) Warning; (d) Determination of abandoned land.

Third, the obstacles faced by Land office of Tegal District in controlling abandoned land as follow: (1) The right holder is unknown, so that at the time of identification and research the Land Office can not ask for information directly from the rights holders, even in giving warnings the Tegal Regency Land Office had difficulties; (2) Rights holder is not cooperative, there is no good cooperation and coordination between right-holders and the Land Office. Thus, they become obstacles in their enforcement.

Suggestion

The regulation is not effective about abandoned land, there is no strict sanctions and lack of implementation of the regulation. Thus, the government in National Land Department needs to conduct the review toward Regulations regarding abandoned land, given the large number of abandoned land in the entire territory of Indonesia.

Regarding many abandoned land in the entire territory of Indonesia, so it needs the education and sustainable socialization of rights holders (people / legal entities), the surrounding community, and related parties regarding the legal rules relating to abandoned land, with the expectation that rights holders, surrounding communities, related parties know what is permissible against the land mastered it.

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